

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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MICHAEL SCOTT ALLEN

Plaintiff,

CIVIL ACTION

COMPLAINT

-v.-

EQUINOX COLLECTION SERVICES, INC.

Defendant.
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Plaintiff Michael Scott Allen ("Plaintiff") by and through his attorneys, RC Law Group, PLLC, as and for his Complaint against Defendant Equinox Collection Services, Inc. ("Defendant") respectfully sets forth, complains and alleges, upon information and belief, the following:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as well as 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201.
2. Venue is proper in this judicial district because a substantial part of the events or omissions giving rise to the claim occurred here, Plaintiff resides here, and Defendant transacts business here.

3. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of 15 U.S.C. § 1692 *et seq.*, commonly known as the Fair Debt Collections Practices Act (“FDCPA”).

PARTIES

4. Plaintiff is a resident of the State of New Mexico, County of Bernalillo, residing at 12021 Emperor Drive NE, Albuquerque, NM 87123.
5. Defendant is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA, with an address at 5807 S. Garnett Road, Ste L, Tulsa, OK, 74146.

FACTUAL ALLEGATIONS

6. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.
7. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff (“Alleged Debt”).
8. The Alleged Debt was incurred as a financial obligation that was primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5).
9. On or around March 16, 2016, Plaintiff went online to pay this alleged debt.
10. Upon arriving at the Defendants website, the Plaintiff found that collection costs for credit card or electronic check payments would be added.
11. Plaintiff did not agree to such a collection charge and the \$ 5.00 collection fee far exceeds any reasonable costs of collection for this account.

12. The addition of this collection fee by Defendant, which was not authorized by the agreement creating the debt or permitted by law, was an attempt to collect an amount not owed by Plaintiff.
13. As a result of Defendant's improper debt collection practices described above, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

14. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.
15. Defendant's debt collection efforts attempted and/or directed towards Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(5), 1692e(10) and 1692f.
16. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendant as follows:

- a) For actual damages provided and pursuant to 15 U.S.C. § 1692k(a)(1);
- b) For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c) For attorney fees and costs provided and pursuant to 15 U.S.C. § 1692k(a)(3);
- d) A declaration that the Defendant's practices violated the FDCPA; and

e) For any such other and further relief, as well as further costs, expenses and disbursements of this action as this Court may deem just and proper.

Dated: June 8, 2016

Respectfully submitted,

/s/Yaakov Saks

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